

Message Text

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ORIGIN EB-07

INFO OCT-01 AF-08 EUR-12 ISO-00 L-03 IO-13 NSC-05 NASA-01

OIC-02 CU-02 CIAE-00 INR-07 NSAE-00 OES-06 PM-04

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EUR/WE - MR. SMITH

AF/E - MR. SHIPPY S/S MR. BRIDGES

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R 301656Z YUG 76

FM SECSTATE WASHDC

TO AMEMBASSY BONN

AMEMBASSY PARIS

INFO AMEMBASSY NAIROBI

C O N F I D E N T I A L STATE 214577

PARIS INFORM PERMDEL UNESCO

E.O. 11652: GDS

TAGS: ETEL, FR, GW, KE

SUBJECT: SYMPHONIE USE OFFER TO UNESCO GENERAL CONFERENCE,
NAIROBI

REF: NAIROBI 8272 (NOTAL)

1. REFTEL REPORTS THAT FRENCH AND WEST GERMAN GOVERNMENTS
HAVE OFFERED FREE USE OF SYMPHONIE SATELLITE COMMUNICATIONS
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FACILITIES FOR UNESCO GENERAL CONFERENCE TO BE HELD IN NAIROBI OCTOBER 26 TO NOVEMBER 30. PARA 3 STATES EAST AFRICAN EXTELCOMS OPPOSE OFFER BECAUSE OF REVENUE LOSS AND THAT GOK IS CONCERNED THAT USE OF SYMPHONIE AS PROPOSED WOULD VIOLATE ITS AGREEMENT WITH INTELSAT.

2. DEPARTMENT IS CONCERNED THAT PROPOSED OFFERING MAY SET PRECEDENT OF BROADENING SYMPHONIE PROGRAM WITHOUT REGARD TO CONDITIONS/PROCEDURES SPECIFIED IN LAUNCH AGREEMENT AND CONTRACT.

3. THERE ARE TWO LEGAL DOCUMENTS WHICH ARE RELEVANT:
A) A LAUNCH AGREEMENT (TIAS 7994) BETWEEN THE UNITED STATES, FRANCE AND THE FEDERAL REPUBLIC OF GERMANY, AND B) A LAUNCH CONTRACT BETWEEN THE CENTRE NATIONAL D'ETUDES SPATIALES (CNES) AND THE GESELLSCHAFT FUR WELTRAUMFORSCHUNG (GFW) ON THE ONE HAND AND THE NATIONAL AERONAUTICS AND SPACE

ADMINISTRATION (NASA) ON THE OTHER HAND.

4. IN THE LAUNCH AGREEMENT IT IS RECALLED BY THE GOF AND FRG THAT THE SYMPHONIE SATELLITE PROGRAM IS ESSENTIALLY AN EXPERIMENTAL PROGRAM IN THE FIELD OF TELECOMMUNICATIONS. HOWEVER, PROVISIONS ARE MADE TO BROADEN THE PROGRAM PROVIDED CERTAIN STEPS ARE TAKEN.

5. THE LAUNCH AGREEMENT REFLECTS THE TERMS OF THE LAUNCH CONTRACT. THREE PARAGRAPHS OF ARTICLE XVI OF THE LAUNCH CONTRACT ARE OF PARTICULAR INTEREST IN THIS MATTER:

A) PARA 2 SPECIFIES "EXPERIMENTAL USES ARE AGREED TO CONSIST PRINCIPALLY OF TESTS AND DEMONSTRATIONS, TO BE GENERALLY OF LIMITED DURATION AND WITHOUT GUARANTEE OF CONTINUITY, AND TO BE NONCOMMERCIAL IN CHARACTER. SUCH USES ARE DISTINGUISHED FROM UTILIZATION OF THE SATELLITES TO PROVIDE OPERATIONAL SERVICES, REVENUE PRODUCING OR OTHERWISE, EXCEPT THAT REVENUE NORMALLY COLLECTED FOR ANOTHER EXISTING SERVICE MAY CONTINUE TO BE COLLECTED FOR THAT SERVICE WHERE ESSENTIAL TO THE CHARACTER OF A SPECIFIC TEST OR DEMONSTRATION." B) PARAGRAPH 3 PROVIDES THAT CNES/G W WILL INFORM NASA IN ADVANCE OF ANY PROPOSED USES OF SYMPHONIE SATELLITES THAT MAY BE CONSIDERED OTHER CONFIDENTIAL

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THAN EXPERIMENTAL. C) PARAGRAPH 4 PROVIDES "IF EITHER NASA OR CNES/GFW BELIEVES THAT SUCH A PROPOSED USE WOULD CONSTITUTE A PUBLIC OR SPECIALIZED TELECOMMUNICATIONS SERVICE, CNES/GFW WILL ASSURE THE INITIATION OF CONSULTATION FORMALITIES WITH INTELSAT UNDER THE TERMS OF ARTICLE XIV OF THE AGREEMENT RELATING TO THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION OF AUGUST 20,

1971."

6. THE LAUNCH AGREEMENT SPECIFIES THAT GOF AND FRG WOULD CONSULT WITH USG WITH A VIEW TO COORDINATING THEIR

POSITION WITH THE INTELSAT BODIES.

7. UNESCO DOCUMENT 99 EX/INF.5 OF 7 MAY 1976 ENTITLED: "POSSIBLE USE OF THE SATELLITE 'SYMPHONIE' DURING THE NINETEENTH SESSION OF THE GENERAL CONFERENCE" DESCRIBES FIVE GROUPS OF "EXPERIMENTS" BETWEEN NAIROBI AND PARIS THAT ARE PROPOSED FOR USE OF:

- A. TELEX LINES
- B. SEVERAL VOICE CHANNEL LINKS
- C. A FACSIMILE CHANNEL
- D. RADIO CHANNEL
- E. IMAGE TRANSMISSION, TELEVISED TRANSMISSION BY "VIOPHONE".

8. BASED ON THE UNESCO DOCUMENT, DEPARTMENT IS CONCERNED THAT THE KIND OF USE PROPOSED TO BE MADE OF SYMPHONIE MAY BE OPERATIONAL IN CHARACTER AND OF THE KIND IN WHICH FACILITIES WOULD NORMALLY BE PROVIDED BY COMMERCIAL ENTITIES. ALSO THE DURATION OF THE OFFERING, I.E., 5-6 WEEKS COULD BE INTERPRETED AS ADDITIONAL INDICATION THAT THESE SERVICES ARE OF AN OPERATIONAL NATURE.

9. DEPARTMENT REQUESTS EMBASSIES TO CONVEY TO APPROPRIATE AUTHORITY U.S. VIEW THAT UNESCO'S PROPOSED USE OF SYMPHONIE AS DESCRIBED IN UNESCO DOCUMENT NO. 99 EX/INF.5 APPEARS MARGINAL UNDER ARTICLE 16, PARAGRAPH 2 OF LAUNCH CONTRACT SINCE IT PROVIDES FULL DAILY SERVICE FOR FIVE TO SIX WEEKS WHERE ALTERNATE COMMERCIAL SERVICE IS CONFIDENTIAL

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AVAILABLE. GOVERNMENT OF KENYA CONCERN WITH THIS FACT IS RELEVANT AS TO OBVIOUS MARGINAL CHARACTER THIS USE. EMBASSIES SHOULD INFORM AUTHORITIES WE DO NOT INTEND CHALLENGE THIS PARTICULAR USE BUT ASK CAREFUL STUDY BY FRENCH AND GERMAN AGENCIES CONCERNED OF FUTURE DEMONSTRATIONS ON SYMPHONIE IN LIGHT OF ARTICLE 16. WE WOULD EXPECT ADVANCE CONSULTATION WHERE REASONABLE QUESTION COULD ARISE AS TO EXPERIMENTAL VERSUS OPERATIONAL CHARACTER OF A PROPOSED USE. FURTHER THE RIGHT OF NASA UNDER ARTICLE 16 TO REQUEST SUBMISSION OF A PROPOSED USE TO INTELSAT CLEARLY IMPLIES SUCH ADVANCE CONSULTATION.

10. ADVISE. KISSINGER

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NNN

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